IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1013 OF 2006

Sou. Vimal Tulsidas Gore ...Appellant

v/s

Sou. Shailaja J. Badave ...Respondent

Mr Rupesh Bobade i/b Mr Umesh Mankapure for Appellant.

None for Respondent.

CORAM : D.K. DESHMUKH J.

DATE : 10TH AUGUST 2007.

P.C. :-

1. Admitted position was that the husband of the appellant had received the amount by cheque. It was her defence that her husband had done construction work for the plaintiff and therefore this payment was made by the plaintiff to the husband of the defendant because the plaintiff owed the amount to the husband of the defendant. For establishing this defence, it was necessary for the defendant to enter the witness box to prove that the husband of the defendant had carried out some construction work for the plaintiff and the plaintiff owed money to the husband of the defendant on that count. Also, the defendant ought to have proved that the amount which was paid by cheque by the plaintiff to the husband of the defendant was towards repayment of that amount. Unless all these aspects are establishment by the defendant, her defence cannot be accepted. Admitted position is that the defendant has not entered the witness box, she has not led any evidence, documentary or oral, to show that the plaintiff had paid the amount towards repayment of the amount that the defendant's husband was entitled to receive from the plaintiff. No substantial question of law arises. Second appeal is rejected. Civil

application No.1740 of 2006 is disposed off.

. Parties to act on the copy of this order duly authenticated by the Sheristedar / Private Secretary as true copy.

. Certified copy expedited.